



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 2, 2000

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM:

Robert Raben

Assistant Attorney General

SUBJECT:

Weekly Report for October 2, 2000 - October 6, 2000

KEY ISSUES

Wen Ho Lee: Last week, the Senate Judiciary and Intelligence Committees held an open joint hearing focused on the plea agreement and conditions of confinement of Dr. Lee on September 26; you, FBI Director Freeh, and U.S. Attorney for the District of New Mexico Norman Bay were witnesses. The House Intelligence Committee held a closed hearing the same day in the afternoon; you and Director Freeh were witnesses. On September 27, the Senate Judiciary Committee's Department of Justice Oversight Task Force held a second hearing; witnesses for the Department were Assistant Attorney General James Robinson and U.S. Attorney Norman Bay. The Department provided copies of plea agreement correspondence (defense counsel had already provided copies of its letters to the Committee) and documents on conditions of confinement prior to the hearings. (Copies of the complete public court docket filings were provided to all three committees the previous week.) The Department began coordination of a letter to Congress with additional information regarding conditions of confinement.

FOIA EXEMPTION (b)5

The Senate Judiciary Department of Justice Oversight Task Force is scheduled to hold a hearing on October 3. Two FBI line agents have been invited: [REDACTED] Other witnesses invited include a DOE employee, Robert Vrooman, and two nuclear scientists used as experts by the prosecution and defense (Dr. Stephen Younger and Dr. John Richter). The hearing is open at this time

The Senate Judiciary Department of Justice Oversight Task Force tentatively has scheduled another hearing on Wednesday, October 11. Witnesses are not yet announced; they may include Wen Ho Lee's attorneys if the debriefing process has not yet started.

THE WEEK AHEAD

Bankruptcy: Senator Lott introduced a bankruptcy bill that is basically the Senate passed bill stripped of the tax and minimum wage provisions. We understand that the intent is to attach it to an appropriations bill. Objectionable provisions on rent-to-own and the Federal Debt Collection

Practices Act have been deleted. However, also deleted is Administration-supported language dealing with abortion clinics. The Administration sent a letter to the Majority Leader stating that the President would veto this new version of the bill. Further, the letter indicated that attaching bankruptcy reform to legislation that commands widespread support will not cure its defects and the President will not hesitate to veto an otherwise acceptable bill if this bankruptcy bill is attached. (Wilson)

H.R. 3125, the Internet Gambling Prohibition Act: The Department has been advised that this bill may be considered by the full House sometime this week under a closed rule. The bill is opposed by the Administration. (Daley)

Trafficking in Persons: The trafficking bill is currently in conference. We are satisfied with the bill as it is currently written, and we do not expect any further changes to the DOJ sections of the bill. (First)

VAWA: On September 26, the House passed H.R. 1248, which would reauthorize the Violence Against Women Act, and make minor improvements to the grant programs. In the Senate, Republican leadership continues to withhold action on S. 2787, which is more comprehensive, and preferred VAWA legislation. (First)

Telecom: The Department continues to monitor the status of pending telecom merger legislation (S. 467 [DeWine/Kohl], H.R. 4019 [Pickering/Tauzin], S.2793 [Hollings] and H.R. 4903 [Dingell/Markey]). The Department is also monitoring the status of a provision in Commerce, Justice, State Appropriations that would establish a one year moratorium on FCC licensing of mergers involving foreign government ownership interests greater than 25 percent. None are moving at this time. (Walter)

Hearing about Preventing and Combating Crime: On October 2, the House Judiciary Committee's Subcommittee on Crime (McCollum, Chair) will hold a hearing about programs and policies that have been effective in preventing and combating crime. Patrick Coleman, Deputy Director of the Bureau of Justice Assistance and John Wilson, Acting Administrator of OJJDP will testify. (Graupensperger)

Drug Kingpin/Foreign Asset Controls: Deputy Assistant Attorney General Thomas Perrelli will testify on issues of due process and judicial review before the Judicial Review Commission on Foreign Asset Control on October 3. (Walter)

Seaport Security Hearing: On October 3, the Senate Commerce Committee (McCain, Chair) will conduct a hearing about the report recently issued by the Interagency Commission on Crime and Security in United States Seaports, of which the Department of Justice was a member. Criminal Divisions's Assistant Attorney General James Robinson will testify on behalf of the Department. (Graupensperger)

H-1B Visas: The Senate Democrats and Republicans have reached agreement on a bill to increase the number of H-1B visas for the next 3 fiscal years to 195,000 per year. The Senate is expected to pass this revised bill on Tuesday morning. It is unclear whether the bill will be changed by the

House. Some of DOJ's concerns, particularly with regard to the percentage of the H-1B fee DOJ receives, are addressed by the new bill. (First)

Medicare Givebacks: On October 3, the House Committee on Ways and Means Subcommittee on Health (Thomas, Chair) will mark up a bill relieving health care providers of some of the payment cuts caused by the Balanced Budget Act of 1997. Included in this bill may be provisions that would gut the Stark Anti-Kickback statute, as well as allowing health trade associations to get advisory opinions from HHS-OIG, provisions which DOJ opposes. (Pearlman)

Drug Court Review: On October 3, the Senate Judiciary Committee's Subcommittee on Youth Violence (Sessions, Chair) will hold an oversight hearing on program performance of the Drug Courts. Acting Assistant Attorney General for the Office of Justice Programs Mary Lou Leary will testify on behalf of the Department. (Graupensperger)

Counterfeit Drugs: On October 3, the House Commerce Committee's Subcommittee on Oversight and Investigations (Upton, Chair) is holding a hearing on counterfeit drugs. DAAG Patricia Maher of the Civil Division is testifying for the Department. (Owen)

Puerto Rico: On October 4, the House Resources Committee (Young, Chair) will hold a hearing on H.R. 4751, the "Puerto Rico-United States Bilateral Pact of Non-territorial Permanent Union and Guaranteed Citizenship Act." DAAG William Treanor of OLC will testify on the constitutional problems this bill raises. (Pearlman)

Hearing on Alcohol Problems and Law Enforcement in Alaska: On October 4, the Senate Indian Affairs Committee (Campbell, Chair) will hold an oversight hearing on the alcohol problems affecting Alaska, especially in Alaska Native communities, and the role of law enforcement in addressing the problems. The Department has been invited to testify and intends to testify at the hearing. (Ho)

Waco, Campaign Finance, and Other Matters: The House Government Reform Committee (Burton, Chair) has issued a subpoena to the Attorney General for a hearing on October 5 to address a variety of matters, including Waco, Campaign Finance, and former employees Richard Scruggs and Bob Bratt. We expect the hearing to focus, in part, on the Attorney General's decisions about independent and special counsel appointments plus the Department's responses to Committee subpoenas. We are advised that the Committee has issued subpoenas for the Inspector General's records relating to the ICITAP investigation and for the attendance of Mr. Bratt at this hearing. (Burton)

Vaccines: On October 5, the House Government Reform Committee's Subcommittee on Criminal Justice, Drug Policy and Human Resources (Mica, Chair) may consider a committee report on the Vaccine Injury Compensation Program. DOJ has been working with committee member Henry Waxman to correct various inaccuracies in this report, as well as provide a fairer view on the way DOJ and HHS run this program. In addition, the Subcommittee may consider H.R. 5327, a bill to amend the Vaccine Injury Compensation Program. (Pearlman)

Federal Prison Industries: On October 5, the Oversight and Investigations Subcommittee (Hoekstra, Chair) of the House Education and the Workforce Committee will hold a hearing on

Federal Prison Industries and the proposed military clothing production expansion. Federal Prison Industries has not been invited to testify at the hearing. (Scott-Finan)

Elian Gonzalez and Ruby Ridge Hearing: Senator Specter's DOJ Oversight Task Force has scheduled a hearing for October 10 tentatively entitled, "Lessons Learned from Crisis Situations." The two case examples the task force wants to examine are DOJ's actions in Elian Gonzalez and Ruby Ridge. ODAG, INS and the FBI have been asked to testify. (First)

Sentencing Commission Review: The Criminal Justice Subcommittee (Thurmond, Chair) of the Senate Judiciary Committee postponed its hearing on the U.S. Sentencing Commission and reasons for downward departures from the guidelines until October 12 or 13. Laird Kirkpatrick, of the Criminal Division, will testify on behalf of the Department. U.S. Attorney for the Western District of New York Denise O'Donnell and U.S. Attorney for the Northern District of New York Daniel French will accompany him to answer questions. (Scott-Finan, Tanner)

THE WEEK IN REVIEW

FOIA EXEMPTION (b)5

FISA: Draft copies of one of the reports on FISA requested by Senate Intelligence were provided to Senate and House Intelligence and Senate Judiciary early last week; final copies of the reports were delivered on September 29. (Delivery of these reports was promised to the Committee by the end of the month; [REDACTED])

(Walter)

Motor Vehicle Equipment Defect Notification: Congress is currently considering legislation in response to the recall of certain Firestone tires. On September 21, the Subcommittee on Telecommunications, Trade and Consumer Protection (Tauzin, Chair) of the House Commerce Committee began consideration of H.R. 5164. On September 27, the Subcommittee completed its mark up on the bill and the measure was reported, as amended. (Graupensperger)

Human Rights Abuse Accountability: On September 28, the House Judiciary Committee's Subcommittee on Immigration and Claims (Smith, Chair) held a hearing on H.R. 5285, legislation to amend the Immigration and Nationality Act to prevent human rights abusers from being eligible for admission into the United States and other forms of immigration relief. Director Kevin Rooney and Chief Immigration Judge Michael Creppy of EOIR and General Counsel Bo Cooper of INS testified. (First)

Nominations: The nomination of John Wilson, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention, was sent to the Senate on September 25.

The nominations of Ramsey Johnson and Gerald Fisher, both to be judges on the D.C. Superior Court were approved by the Senate Government Affairs Committee on September 27.

On September 28, the Senate Judiciary Committee approved the nomination of Loretta Lynch, to be United States Attorney for the Eastern District of New York. Also on September 28, the nomination of Steven C. Stafford, to be United States Marshal for the Southern District of California, as well as those DOJ nominees who were recess appointed during the last recess of the Senate, were sent to the Senate. While the Senate Judiciary Committee was waiting to have a

quorum present on September 28, Senators Hatch, Leahy, Kyl and Smith all spoke about nominations and the charges being levied by each party against the other. (Scott-Finan)

Federal Prisoner Co-Pay: On September 28, the Senate agreed to the House amendments to S. 704, which would require federal prisoners to pay at least \$1 of their health care each time they ask to see a doctor, clearing the measure for the President's signature. (Scott-Finan)

Italian American Bill: On September 28, the Senate Judiciary Committee approved H.R. 2442, a bill to provide for the preparation of a government report detailing injustices suffered by Italian Americans during World War II and a formal acknowledgment of such injustices by the President. DOJ has informally provided our concerns about this legislation to staff for Senators Leahy, Torricelli, and Feingold. We are currently reviewing the amendment offered by Senator Hatch and the amendment Senator Feingold plans to offer on the floor. (Scott-Finan)

Counterfeit Bulk Pharmaceuticals: On September 27, we sent a letter responding to questions by House Commerce Committee Chairman Tom Bliley on the subject of counterfeit bulk pharmaceuticals, and international enforcement problems faced by federal law enforcement. (Owen)

Indian Affairs: On September 27, the Senate Committee on Indian Affairs (Campbell, Chair) approved S. 2917, the Santo Domingo Claims Settlement Act. (Pearlman)

Torres-Martinez: The Senate Indian Affairs Committee (Campbell, Chair) approved H.R. 4643, the Torres-Martinez Desert Cahuilla Indian Claims Settlement Act on September 27. This legislation, endorsed by the Departments of Justice and Interior, will settle a variety of land claims related to the trust lands of the Torres-Martinez in Southern California. (Pearlman)

Children's Health Act: H.R. 4365, the Children's Health Act of 2000 was passed by the House on September 27, having passed the Senate on September 22. The bill includes, as Title XXXV, a waiver for physicians for appropriate use of buprenorphine; and as Title XXXVI, legislation to enhance enforcement respecting Methamphetamine, Amphetamine and Ecstasy. The legislation includes important provisions sought by the Department. Provisions that had raised concerns as to civil liberties (e.g., 90-day waiver of notice of search warrants, penalties for distribution of drug-related information.) (Tanner)

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White House E-Mail Investigation: On September 26, Deputy Assistant Attorney General Alan Gershel testified under subpoena before the House Government Reform Committee. The Committee questioned Mr. Gershel about the resources devoted to the investigation of the White House e-mail matter and sought additional information about the investigation that he was reluctant to answer. It is not yet clear whether the Committee will press for this information. (Burton)

H.R. 4904 - Native Hawaiian Bill: The House passed the bill on suspension on September 26. The bill would affirm and acknowledge the political relationship the United States and the Native Hawaiians and would facilitate the process of Native Hawaiian self-governance over their cultural resources and internal affairs. (Ho)

H.R. 5018, the Electronic Communications Privacy Act: On September 26, the House Judiciary Committee (Hyde, Chair) reported this legislation. It is scheduled for suspension on October 3. The Department of Justice, and state and local law enforcement is opposed to the bill as introduced and to the proposed Manager's Amendment. (Daley)

Senate Intelligence Authorization Bill: Last week, the Senate bill (which includes the global treaty fix, leak prosecution, and FISA provisions) was stalled by holds due to a last minute attempt by Senator Kyl to attach a terrorism amendment. The Department sent a views letter opposing parts of the amendment; Senate staff revised the amendment to address the Department's concerns. If current holds on the bill are lifted, the bill will likely pass the Senate by unanimous consent and go to conference this week (Walter)